

Applicant : Barry Appelman  
Serial No. : 09/873,272  
Filed : June 5, 2001  
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Attorney's Docket No.: 06975-054001 / Network 02

### **REMARKS**

Applicant requests reconsideration and allowance in view of the foregoing remarks.

Claims 1-37 are pending, with claims 1, 22, and 30 being independent. No new matter is added.

### **Interview**

Applicant wishes to thank the Examiner for the courtesy extended to Applicant's representatives during a telephonic interview on June 20, 2005. This reply reflects the substance of the interview.

### **Enablement Rejection**

Claim 37 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Applicant has amended claim 37 to now recite "a propagated signal that carries the computer program". Applicant notes that a propagated signal may be configured to carry a computer program, for example, as programs are provided across communications networks. As such, the propagated signal may in fact serve as a computer readable medium, contrary to the suggestions made on page 2 of the Office Action. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

### **Indefinite Rejections**

Claims 12 and 33-35 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 12 and 33-35 as recommended by the Examiner to obviate these rejections. Applicant respectfully requests reconsideration and withdrawal of these rejections.

**No New Issues Are Raised**

The amendments made to claims 12, 33-35, and 37 are ministerial in nature. Moreover, the Office Action indicates that the changes to claim 12 were assumed during prior examination, as were the changes to claims 33-35. The change to claim 37 also does not raise new issues, as illustrated by arguments presented on page 2 of the Office Action, where the Examiner acknowledges that claim 37 previously required the medium to include a propagated signal. Because the amendments do not raise new issues, a finding of finality is not believed to be proper.

**Appelman in view of Hurtado Rejection**

Claims 1-37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Appelman (International Pub. No. WO 97/38434) in view of Hurtado et al. (U.S. Patent No. 6,611,812).

Claims 1-37 are improperly rejected because Appelman does not qualify as prior art under 35 USC 102, and Appleman's teachings cannot be relied upon in formulating a 35 U.S.C. § 103(a) rejection. Applicant notes that Appelman was cited as a priority document in the declaration and on the first page of the application as U.S. Application No. 08/630,846, filed April 11, 1996. U.S. Application No. 08/630,846 issued as U.S. Patent No. 6,112,250 on August 29, 2000, but pendency to the parent case was maintained through U.S. Application No. 09/371,208, filed on August 10, 1999.

Because the rejection of claims 1-37 was improperly based on a Applicant's priority document, withdrawal of the rejection of claims 1-37 is respectfully requested.

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Enclosed is a \$1020 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 6/21/01

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